

# SENATE BILL REPORT

## HB 2428

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As of February 23, 2010

**Title:** An act relating to fees for locating surplus funds from county governments, real estate property taxes, assessments, and other government lien foreclosures or charges.

**Brief Description:** Concerning fees for locating surplus funds from county governments, real estate property taxes, assessments, and other government lien foreclosures or charges.

**Sponsors:** Representatives Takko, Warnick, Springer, Parker, Eddy, Morrell, Kelley, O'Brien, Bailey and Ormsby; by request of Attorney General.

**Brief History:** Passed House: 2/10/10, 96-0.

**Committee Activity:** Financial Institutions, Housing & Insurance: 2/24/10.

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### SENATE COMMITTEE ON FINANCIAL INSTITUTIONS, HOUSING & INSURANCE

**Staff:** Diane Smith (786-7410)

**Background:** Under the state Uniform Unclaimed Property Act (UUPA), a business that holds unclaimed intangible property must transfer it to the Department of Revenue (DOR) after a holding period.

The holding period varies by type of property, but for most unclaimed property the period is three years. After the holding period has passed, the business in possession of the property must transfer it to DOR.

Under the UUPA, DOR's duty is to find the rightful owner of the property, if possible. One of the DOR's responsibilities is to place a notice by November 1 of each year in a newspaper of general circulation in each county which contains the last known address of an apparent owner of unclaimed property that is reported and turned over to the state in that year. If DOR does not have an address, then the notice must be published in the county in which the holder of the property has its principal place of business. DOR is required to mail notices by September 1 of each year to the apparent owners of unclaimed property for that year.

Under certain circumstances, counties, cities, and other municipal corporations are not subject to the UUPA, and are therefore exempt from the DOR reporting requirements. Exempt property includes certain canceled warrants, uncashed checks, excess proceeds from

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foreclosures pursuant to the enforcement of property tax delinquencies, and property tax overpayments or refunds.

The local government may retain this property until notified by the owner, but must provide a listing of the property to DOR.

Businesses that match unclaimed property held by DOR with the owner are known as heir locators. These businesses are prohibited from charging the owner a fee of more than 5 percent of the property's value.

The Consumer Protection Act (CPA) prohibits unfair methods of competition and unfair or deceptive acts or practices in the conduct of trade or commerce. The state Attorney General may bring an action to enforce the provisions of the CPA.

**Summary of Bill:** The act eliminates the blanket exemption from the UUPA regulations as they apply to excess, unclaimed proceeds from property tax foreclosures, assessments, and liens held by counties, cities, and other municipalities. Specifically, the act prohibits businesses which provide the service of matching such unclaimed property with the owners of the property from charging fees in excess of 5 percent of the value of the property that is returned to the owner. A business that exceeds this fee limitation is in violation of the state CPA and is therefore subject to the remedies provided under the CPA.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.